

### **REMARKS**

Presently, claims 18-34 are pending in the application. A Request for Continued Examination ("RCE") under 37 C.F.R. §1.114 is being filed herewith. Claims 1-17 have been canceled. New claims 18-34, corresponding to canceled claims 1-17, respectively, have been added to more particularly point out the present invention, and to place the claims in better U.S. form. Support for the features added to new independent claims 18 and 29 may be found, for example, at page 4, line 1 – page 5, line 2 and the paragraph bridging pages 14-15 of the specification. Accordingly, no new matter has been added to application by the foregoing amendments.

#### ***Prior Art Rejection – § 102(b)***

The Examiner has rejected claims 1, 4, 10, 12, 14, 15 and 17 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,652,615 to Bryant *et al.* ("Bryant"). The Examiner contends that Bryant teaches the creation of a plurality of subavails that are targeted to a particular audience group and aggregating the subavails to create one or more groups of subavails, resulting in Applicants' claimed invention. Applicants respectfully traverse this rejection.

Bryant discloses a system for broadcasting composite programs to particular audiences. In Bryant, base program content 310 (e.g., substantive program content) is decoupled from fill content 320 (e.g., advertisements), such that each target audience may be exposed to specified fill material while viewing the same base program as the other target audiences. The fill material is based on the demographics of the particular target audience. Bryant discloses that the base and fill material segments are arranged within a broadcast signal 300 in a temporal manner, such that the segments are substantially without overlap (see Fig. 3 of Bryant). Bryant further discloses that the fill segments 320 may be separately identified and that multiple fill segments may be carried during the same time period on the circuit carrying the associated program content. Bryant's system may select and insert the desired fill segment during distribution of the program.

Applicants' invention is directed to a method and system of creating one or more advertising subavails and aggregating the subavails into groups for sale to advertisers. Typically, an advertiser purchases an avail that has an expected viewership associated therewith. In Applicants' invention, the avails are divided into subavails, each of which is directed to a particular target audience. When the subavails are grouped, each group may correspond to the same target audience. Each subavail group may be sold to an advertiser. Therefore, the advertiser purchases a group of different subavails (all targeted to the same audience), but which have a total expected viewership that is at least as large as the expected viewership that the advertiser would have captured when purchasing a single, un-divided avail. In this manner, purchasing groups of subavails is more efficient and useful for an advertiser.

For a rejection under § 102(b) to be proper, a reference must disclose, either explicitly or inherently, each and every element of the claimed invention. Applicants respectfully submit that Bryant does not teach each and every element recited in independent claim 18.

New independent claim 18 recites:

A method of managing advertisement opportunities (avails) in a television network environment, the method comprising:

- (a) recognizing one or more advertisement opportunities (avails), each avail having an expected viewership;
- (b) creating a plurality of subavails based on the recognized avails, wherein each subavail is directed at a target audience group; and
- (c) generating one or more groups of subavails by aggregating the plurality of subavails, wherein at least one of the groups of subavails has an expected viewership greater than or equal to the expected viewership of one of the avails.

Bryant does not disclose a system where the subavails are grouped such that the expected viewership of the group is "greater than or equal to the expected viewership of one of the avails." Bryant is completely silent with respect to viewership of any portion of the broadcast signal 300, including the fill segments 320. In Bryant, there is no disclosure that there is any viewership relationship with respect to any of the fill

segments or “groups” thereof. However, in the present invention, the aggregation of the subavails results in groups of subavails that have an expected viewership that is greater than or equal to the expected viewership of at least one of the avails from which the subavails forming those groups came. Thus, Bryant does not disclose each and every element of new independent claim 18. Accordingly, new independent claim 18 is believed to be allowable over Bryant.

Similarly, new independent claim 29 recites “a grouping module configured to create one or more groups of subavails by aggregating the plurality of subavails, wherein at least one of the groups of subavails has an expected viewership greater than or equal to the expected viewership of one of the avails.” For the same reasons discussed above with respect to new independent claim 18, Bryant does not disclose all of the elements of new independent claim 29. Accordingly, new independent claim 29 is believed to be allowable over Bryant.

Claims 1, 4, 10, 12, 14, 15 and 17 have been canceled. Reconsideration and withdrawal of the Examiner's § 102(b) rejection of claims 1, 4, 10, 12, 14, 15 and 17 are respectfully requested.

***Prior Art Rejection – § 103(a)***

The Examiner has rejected claims 2-3, 5-9, 11, 13 and 16 under 35 U.S.C. §103(a) as being unpatentable over Bryant in view of International Patent Application Publication No. WO 00/33163 to Eldering (“Eldering”). For the same reasons discussed above with respect to the Examiner's §102(b) rejection, new independent claims 18 and 29 are believed to be allowable over Bryant. Applicants respectfully submit that Eldering does not teach or suggest any of the features missing from Bryant. Accordingly, new independent claims 18 and 29 are believed to be allowable over the combination of Bryant and Eldering.

New dependent claims 19-28 and 30-34 are allowable at least by their dependency on independent claims 18 and 29. Claims 2-3, 5-9, 11, 13 and 16 have been canceled.

Reconsideration and withdrawal of the Examiner's § 103(a) rejection of claims 2-3, 5-9, 11, 13 and 16 are respectfully requested.

*Conclusion*

In view of the foregoing amendments and remarks, Applicants respectfully submit that the Examiner's rejections have been overcome, and that the application, including claims 18-34, is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejections and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

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